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C O N F I D E N T I A L USUN 3621

FROM US LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: WEEKLY SUMMARY LAW OF THE SEA CONFERENCE

AUGUST 30-SEPTEMBER 3

VISIT OF SECRETARY KISSINGER

1. MAJOR ISSUES DISCUSSED BY SECRETARY ARE OUTLINED
IN UNCLASSIFIED SUMMARY AND WIRELESS FILE TEXTS. FOR
INFORMATION OF PAST PARTICIPANTS ROUNDTABLE DISCUSSION
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ON COMMITTEES II AND III ISSUES INCLUDED AUSTRALIA,

BRAZIL, BULGARIA, CANADA, KENYA, MEXICO, FRG, NETHERLANDS, NEW ZEALAND, NORWAY, PERU, SENEGAL, SINGAPORE AND VENEZUELA.

2. ROUNDTABLE DISCUSSION ON COMMITTEE I ISSUES INCLUDING DISCUSSION OF TWO PROPOSALS MADE BY SECRETARY INCLUDED PERU, BRAZIL, MEXICO, TUNISIA, NIGERIA, GHANA, UK, SENEGAL, SRI LANKA, CAMEROON, NORWAY, CHILE, NETHERLANDS, JAMAICA, AND INDIA.

3. IN ADDITION SECRETARY MET PRIVATELY WITH CONFERENCE PRESIDENT AMERASINGHE ON TWO OCCASIONS, AND SPOKE BRIEFLY AT A RECEPTION FOR HEADS OF DELEGATIONS.

COMMITTEE I

4. SECRETARY'S VISIT: SECRETARY, PROPOSALS ON FINANCING AND TECHNOLOGY TRANSFER TO ENTERPRISE AND PERIODIC REVIEW CONFERENCES FOR PART I OF TREATY ARE BEING TREATED CIRCUMSPECTLY BY LDCS. MANY ARE PRIVATELY DESCRIBING INITIATIVE AS CONSTRUCTIVE STEP BUT ONE WHICH SHOULD BE DEFERRED FOR SERIOUS DISCUSSION UNTIL NEXT SESSION, SINCE BELIEF IS THAT TIME IS NOT RIGHT IN REMAINDER OF THIS SESSION FOR CONSIDERATION OF REAL COMPROMISES. OTHERS, PARTICULARLY ARAB STATES, ARE PRIVATELY REJECTING SECRETARY'S PROPOSALS AS ATTEMPT TO "BUY" ACCESS AND TO TAKE OVER CONTROL OF THE ENTERPRISE. WE UNDERSTAND JAGOTA (INDIA, CO-CHAIRMAN OF C-I WORKSHOP) HELD MEETING OF SELECT LDCS FRIDAY AT WHICH HE DESCRIBED SECRETARY'S PROPOSALS AS RESPONDING TO INDIAN INITIATIVE MADE DURING JULY BILATERALS IN DELHI, AND HE PRESENTED IN DETAIL HIS PROPOSALS ON "STAGGERED" ACCESS FOR ENTERPRISE AND STATES AND PRIVATE COMPANIES. OUR INFORMATION IS THAT NO LDC SPECIFICALLY SUPPORTED JAGOTA PROPOSALS FOR COMPULSORY ROTATION BETWEEN MINING PROJECTS ON TWO SIDES OF PARALLEL SYSTEM, BUT THAT DISCUSSION CONCENTRATED ON APPROPRIATE GROUP OF 77 STRATEGY IN COMMITTEE I. GENERAL FEELING REPORTED TO US, WAS THAT US WOULD NEVER ADOPT UNILATERAL SEABED MINING LEGISLATION AND THAT GROUP OF 77 POSITION SHOULD REMAIN UNCOMPROMISING, SINCE TIME WAS ON THEIR SIDE AND US WOULD EVENTUALLY

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MAKE GREATER CONCESSIONS UNDER TIME PRESSURE. MOST ACTIVE INTEREST IN SECRETARY'S INITIATIVE COMES FROM AFRICAN GROUP WHICH IS HOLDING MEETING SPECIFICALLY TO DISCUSS US PROPOSALS.

5. WORK IN C-I INFORMAL MEETINGS CONTINUES ON SUBJECT OF EXPLOITATION SYSTEM, WITH SECRETARY'S INITIATIVE HAVING NO VISIBLE EFFECT ON DISCUSSIONS. WORKSHOP AGREED THAT IT

WILL TRY TO COMMENCE DISCUSSION OF ASSEMBLY AND COUNCIL DURING THE WEEK OF SEPTEMBER 6, AT WHICH TIME WE ANTICIPATE INTRODUCTION OF GROUP OF 77 AMENDMENTS TO ARTICLES 25-28 WHICH TOTALLY ELIMINATE BALANCE OF POWERS BETWEEN ASSEMBLY AND COUNCIL AND REMOVE ALL VOTING AND PROCEDURAL PROTECTIONS FROM ASSEMBLY DECISION-MAKING. US DEL INTENDS TO BEGIN INFORMAL CIRCULATION OF US DRAFT ARTICLE 27 ON VOTING AND COMPOSITION OF COUNCIL WITH AMENDMENTS AGREED IN GROUP OF FIVE (REPORTED SEPTTEL).

6. CONTRADICTORY RUMORS CONTINUE TO CIRCULATE ABOUT WHETHER PRESIDENT AMERASINGHE IS DRAFTING OR HAS ASKED OTHERS TO DRAFT A NEW TEXT OF C-I ARTICLES. BECAUSE OF CLEAR RECOGNITION THAT US HAS NO FLEXIBILITY ON PURE PARALLEL SYSTEM OR ON CONCEPT OF NEGOTIATED CONTRACTS, IF ATTEMPT IS MADE TO NEGOTIATE COMPROMISE TEXT, IT IS UNLIKELY THAT WE WILL BE ASKED TO PARTICIPATE. WE ARE MAINTAINING POSITION THAT, UNLESS WE ARE ASSURED THAT ACCESS PROVISIONS IN RSNT WOULD BE RETAINED, WE WILL BE UNWILLING TO FLESH OUT IDEAS OF SECRETARY'S PROPOSALS FOR FINANCING AND TECHNOLOGY TRANSFER TO ENTERPRISE.

COMMITTEE II

7. SECRETARY'S VISIT: SECRETARY KISSINGER MET WITH SELECTED DELEGATIONS (14) REPRESENTING A SPECTRUM OF VIEWS ON COMMITTEES II AND III MATTERS, FROM THE MOST EXTREME (PERU, KENYA, BRAZIL) TO THE MODERATE (NORWAY, AUSTRALIA, CANADA, NEW ZEALAND). AT THE CONCLUSION OF THE MEETING THE SECRETARY IDENTIFIED THREE CATEGORIES OF POSITIONS ON THE ECONOMIC ZONE WITHIN THE GROUP: (1) THE RIGHTS WITHIN THE ZONE FALL PRIMARILY TO THE COASTAL STATES WITH OTHER STATES ENJOYING ONLY LIMITED RIGHTS; CONFIDENTIAL

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(2) THE ZONE'S HIGH SEAS EXCEPT FOR RIGHTS SPECIFICALLY ASSIGNED TO COASTAL STATES IDENTIFIED AS THE U.S. POSITION); AND (3) THE RIGHTS AND DUTIES OF THE COASTAL AND OTHER STATES IN THE ZONE SHOULD BE MORE PRECISELY DEFINED. HE SUGGESTED SOME ATTENTION BE GIVEN TO THE THIRD OPTION. REACTIONS TO THE SECRETARY'S DISCUSSIONS HAVE BEEN MIXED, RAISING QUESTION OF SHIFT IN U.S. POSITION. US DEL HAS STRESSED THAT BASIC POSITION ON WHAT WE MUST HAVE IN THE ZONE IS UNCHANGED.

8. PROGRESS IN THE NEGOTIATING GROUPS OF COMMITTEE II WAS SLOW IN ALL AREAS. TREND IN REVENUE SHARING NEGOTIATIONS APPEARS TO BE AS STATED BY NJENGA (SEE UNCLASSIFIED WEEKLY SUMMARY), DESPITE STRONG OBJECTIONS OF US TO DOUBLE STANDARD OF REVENUE SHARING PAYMENTS BETWEEN DEVELOPED

AND DEVELOPING STATES.

COMMITTEE III

9. MARINE POLLUTION. CONTINUED REVIEW OF POSSIBLE AMENDMENTS TO POLLUTION TEXT IS LEADING INEVITABLY TO VERY FEW, IF ANY, CHANGES IN THE MARINE POLLUTION TEXT. SINCE STRUCTURE OF TEXT IS BROADLY ACCEPTABLE, THERE IS GREAT RELUCTANCE TO STRONGLY PUSH AMENDMENTS IF THERE IS ANY RISK OF UPSETTING TEXT. ON THE MAJOR OUTSTANDING ISSUE OF COASTAL STATE REGULATIONS IN THE TERRITORIAL SEA FOR VESSEL POLLUTION, NO AGREEMENT HAS BEEN REACHED. MAJORITY CONTINUES TO FAVOR U.K. POSITION OF RESTRUCTURING COASTAL STATE AUTHORITY. CHAIRMAN YANKOV'S DESIRE NOT TO CHANGE TEXT AND SECOND COMMITTEE CHAIRMAN AGULAR'S DESIRE NOT TO REOPEN RELATED ARTICLES IN PART II ARE MAKING IT EXTREMELY DIFFICULT FOR US TO ACHIEVE OUR POSITION. WE ARE CONTINUING TO WORK PRIVATELY TO ACHIEVE COMPROMISE ON THE ISSUE.

10. MARINE SCIENTIFIC RESEARCH. NO AGREEMENT WAS REACHED ON A COMPROMISE FOR SCIENTIFIC RESEARCH REGIME FOR ECONOMIC ZONE AND CONTINENTAL SHELF. AUSTRALIA, MEXICO, AND THE U.K. ARE PRIVATELY EXPLORING A COMPROMISE WHICH WOULD BLUR THE ISSUE OF THE GENERAL CONSENT CONCEPT BUT WOULD HAVE A LIMITED SPECIFIC LIST OF CRITERIA FOR WITHHOLDING CONSENT. USSR
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CONTINUES TO STRESS ITS WILLINGNESS TO ACCEPT TOTAL, UNQUALIFIED CONSENT AND MAY EVEN PREFER SUCH A REGIME.

DISPUTE SETTLEMENT

11. PRESIDENT'S AMENDMENT TO THE COMPOSITION OF THE LOS TRIBUNAL RECEIVED WARM WELCOME FROM USSR AND WAS CALLED CONSTRUCTIVE PROGRESS BY US. NO DELEGATION OPPOSED IT AND THE DEBATE FOCUSED INSTEAD ON WHETHER QTE EQUITABLE GEOGRAPHICAL DISTRIBUTION UNQTE SHOULD BE A CRITERION FOR SELECTION OF JUDGES. ON FUNDING OF THE TRIBUNAL, FRANCE AND UKRAINE TOOK STRONG VIEW THAT ONLY STATES THAT ACCEPT JURISDICTION OF THE TRIBUNAL SHOULD PAY FOR IT. (COMMENT: DEVELOPING COUNTRIES REPLIED IN PRIVATE THAT IN THAT CASE MOST OF THEM SHOULD NOT PAY FOR THE INTERNATIONAL COURT OF JUSTICE). SOVIET UNION LAUNCHED STRONG ATTACK ON ACCESS TO THE TRIBUNAL FOR PRIVATE PARTIES OR INTERNATIONAL ORGANIZATIONS, SAVE IN A CASE ARISING FROM A CONTRACT BETWEEN THE AUTHORITY AND A PRIVATE PARTY. BAHRAIN, WITH THE SUPPORT OF OTHER ARABS AND YUGOSLAVIA, PROPOSED ALLOWING ACCESS TO THE TRIBUNAL FOR NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ARAB

LEAGUE OR OAU.
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